

## **Senate Bill No. 318**

### **CHAPTER 60**

An act to amend Sections 19173 and 19175 of the Government Code, relating to civil service.

[Approved by Governor June 30, 2011. Filed with  
Secretary of State July 1, 2011.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 318, De León. Civil service: rejected probationer: investigation.

Existing law requires the service of a probationary period under specified circumstances, including when an employee enters the civil service. Under existing law, the probationer may be rejected by the appointing power during the probationary period for reasons relating to the probationer's qualifications, the good of the service, or failure to demonstrate merit, efficiency, fitness, and moral responsibility. Existing law requires the State Personnel Board to prescribe rules regarding the time in which a probationer may be rejected and take certain actions in an investigation of the reasons for that rejection. Existing law exempts employees of State Bargaining Unit 5, the California Association of Highway Patrolmen, from these rules and actions of the board, as specified.

This bill would delete these exceptions relating to members of State Bargaining Unit 5.

*The people of the State of California do enact as follows:*

SECTION 1. Section 19173 of the Government Code is amended to read:

19173. (a) Any probationer may be rejected by the appointing power during the probationary period for reasons relating to the probationer's qualifications, the good of the service, or failure to demonstrate merit, efficiency, fitness, and moral responsibility, but he or she shall not be rejected for any cause constituting prohibited discrimination as set forth in Sections 19700 to 19703, inclusive.

(b) A rejection during probationary period is effected by the service upon the probationer of a written notice of rejection which shall include: (A) an effective date for the rejection that shall not be later than the last day of the probationary period; and (B) a statement of the reasons for the rejection. Service of the notice shall be made prior to the effective date of the rejection, as defined by board rule for service of notices of adverse actions. Notice of rejection shall be served prior to the conclusion of the prescribed probationary period. The probationary period may be extended when

necessary to provide the full notice period required by board rule. Within 15 days after the effective date of the rejection, a copy thereof shall be filed with the board.

SEC. 2. Section 19175 of the Government Code is amended to read:

19175. The board at the written request of a rejected probationer, filed within 15 calendar days of the effective date of rejection, may investigate with or without a hearing the reasons for rejection. After investigation, the board may do any of the following:

- (a) Affirm the action of the appointing power.
- (b) Modify the action of the appointing power.
- (c) Restore the name of the rejected probationer to the employment list for certification to any position within the class; provided, that his or her name shall not be certified to the agency by which he or she was rejected, except with the concurrence of the appointing power of that agency.
- (d) Restore him or her to the position from which he or she was rejected, but this shall be done only if the board determines, after a hearing, that there is no substantial evidence to support the reason or reasons for rejection, or that the rejection was made in fraud or bad faith. At the hearing, the rejected probationer shall have the burden of proof. Subject to rebuttal by the rejected probationer, it shall be presumed that the rejection was free from fraud and bad faith and that the statement of reasons therefor in the notice of rejection is true.